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FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: Yes 08/28/2023
01/11/2024

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

CL/MM

P.L. 2023, CHAPTER 257, approved January 12, 2024
Assembly, No. 3117 (Third Reprint)

1 AN ACT concerning juvenile justice and amending P.L.1982, c.77.

2

3 **BE IT ENACTED** by the Senate and General Assembly of the State
4 of New Jersey:

5

6 1. Section 20 of P.L.1982, c.77 (C.2A:4A-39) is amended to
7 read as follows:

8 20. a. A juvenile shall have the right, as provided by the Rules
9 of Court, to be represented by counsel at every critical stage **[in**
10 **the]** of a court proceeding [which, in the opinion of the court may
11 result in the institutional commitment of the juvenile]. For the
12 purposes of this act “critical stage of a court proceeding” shall
13 include ¹**[but not be limited to]**³, but not be limited to³: every
14 court appearance by the juvenile ¹, including all post dispositional
15 appearances¹; ¹and¹ any interrogation, identification procedure, or
16 other investigative activity involving the juvenile undertaken by law
17 enforcement or prosecutorial personnel subsequent to the filing of
18 the complaint¹]; and the duration of any dispositional order entered
19 by the court]¹.

20 b. During every critical stage of a court proceeding in a
21 delinquency case provided under subsection a. of this section, the
22 waiving of any right afforded to a juvenile shall be accomplished in
23 the following manner:

24 (1) A juvenile who is found to have mental capacity may not
25 waive any rights except in the presence of and after consultation
26 with counsel, and unless a parent has first been afforded a
27 reasonable opportunity to consult with the juvenile and the
28 juvenile's counsel regarding this decision. The parent or guardian
29 may not waive the rights of a juvenile found to have mental
30 capacity.

31 (2) Any such waiver shall be executed in writing or recorded.
32 Before the court may accept a waiver, the court shall question the
33 juvenile and the juvenile's counsel to determine if the juvenile is
34 knowingly, willingly, and voluntarily waiving any right. If the
35 court finds after questioning the juvenile that the waiver is not
36 being made voluntarily and intelligently, the waiver shall be denied.

37 (3) A juvenile who is found to lack mental capacity may not
38 waive any right. A guardian ad litem shall be appointed for the
39 juvenile who may waive rights after consultation with the juvenile
40 and the juvenile's counsel.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (4) Waivers shall be executed in the language regularly spoken
2 by the juvenile.

3 (cf: P.L.2013, c.103, s.1)

4
5 ²[2. Section 26 of P.L.1982, c.77 (C.2A:4A-45) is amended to
6 read as follows:

7 26. Retention of jurisdiction.

8 a. The court shall retain jurisdiction over any case in which it
9 has entered a disposition under paragraph 7 of subsection b. or
10 subsection c. of section 24 of P.L.1982, c.77 (C.2A:4A-43) or under
11 section 25 of P.L.1982, c.77 (C.2A:4A-44) for the duration of that
12 disposition of commitment or incarceration and may substitute any
13 disposition otherwise available to it under section 24 of
14 P.L.1982, c.77 (C.2A:4A-43) other than incarceration.

15 b. Except as provided for in subsection a., the court shall retain
16 jurisdiction over any case in which it has entered a disposition
17 under section 24 of P.L.1982, c.77 (C.2A:4A-43) and may at any
18 time for the duration of that disposition, if after hearing, and notice
19 to the prosecuting attorney, it finds violation of the conditions of
20 the order of disposition, substitute any other disposition which it
21 might have made originally.

22 c. The court may by its order retain jurisdiction in any other
23 case.

24 d. Notwithstanding the provisions of subsection a. of this
25 section, whenever the court has entered a disposition directing the
26 out-of-home placement of the juvenile pursuant to subsection b. or
27 subsection c. of section 24 of P.L.1982, c.77 (C.2A:4A-43) or
28 section 25 of P.L.1982, c.77 (C.2A:4A-44), the court shall conduct
29 a placement review ¹[hearing]¹ no later than 12 months after entry
30 of the dispositional order ¹and may conduct a formal hearing if so
31 requested by the juvenile or ordered by the court¹. During this
32 ¹[hearing] review,¹ the court shall, at a minimum, review the
33 treatment, care, and custody status of the juvenile ¹; determine
34 whether the placement agency is providing those ¹, including the¹
35 mental health, substance abuse, educational, and other rehabilitative
36 services ¹[necessary] provided¹ to promote the juvenile's
37 successful reintegration into the community; determine whether the
38 placement continues to be consistent with the factors enumerated in
39 subsection a. of section 24 of P.L.1982, c.77 (C.2A:4A-43); and, if
40 necessary, modify the ¹[dispositional order] disposition to either
41 reduce the term of incarceration or substitute the placement with
42 any other disposition provided for pursuant to subsection b. of
43 section 24 of P.L.1982, c.77 (C.2A:4A-43),¹ in accordance with
44 those factors. Subsequent placement ¹[review hearings shall]
45 reviews may¹ be conducted by the court at least once every 12
46 months throughout the duration of any out-of-home placement
47 ordered by the court ¹if so requested by the juvenile¹.

1 e. The Supreme Court of New Jersey may adopt Rules of Court
2 governing the conduct of the placement review hearings mandated
3 by subsection d. of this section.

4 (cf: P.L.1995, c.280, s.13) **2**

5

6 **2**[3.] 2.² This act shall take effect immediately.

7

8

9

10

11 Clarifies juvenile's right to attorney representation.

ASSEMBLY, No. 3117

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MARCH 7, 2022

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblyman WILLIAM W. SPEARMAN

District 5 (Camden and Gloucester)

Assemblyman REGINALD W. ATKINS

District 20 (Union)

Co-Sponsored by:

Assemblywoman Jasey

SYNOPSIS

Clarifies juvenile's right to attorney representation; requires 12-month judicial review hearing when juvenile is placed out-of-home.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning juvenile justice and amending P.L.1982, c.77.

2

3 **BE IT ENACTED** by the Senate and General Assembly of the State
4 of New Jersey:

5

6 1. Section 20 of P.L.1982, c.77 (C.2A:4A-39) is amended to
7 read as follows:

8 20. a. A juvenile shall have the right, as provided by the Rules
9 of Court, to be represented by counsel at every critical stage **[in**
10 **the]** of a court proceeding [which, in the opinion of the court may
11 result in the institutional commitment of the juvenile]. For the
12 purposes of this act “critical stage of a court proceeding” shall
13 include but not be limited to every court appearance by the juvenile;
14 any interrogation, identification procedure, or other investigative
15 activity involving the juvenile undertaken by law enforcement or
16 prosecutorial personnel subsequent to the filing of the complaint;
17 and the duration of any dispositional order entered by the court.

18 b. During every critical stage of a court proceeding in a
19 delinquency case provided under subsection a. of this section, the
20 waiving of any right afforded to a juvenile shall be accomplished in
21 the following manner:

22 (1) A juvenile who is found to have mental capacity may not
23 waive any rights except in the presence of and after consultation
24 with counsel, and unless a parent has first been afforded a
25 reasonable opportunity to consult with the juvenile and the
26 juvenile's counsel regarding this decision. The parent or guardian
27 may not waive the rights of a juvenile found to have mental
28 capacity.

29 (2) Any such waiver shall be executed in writing or recorded.
30 Before the court may accept a waiver, the court shall question the
31 juvenile and the juvenile's counsel to determine if the juvenile is
32 knowingly, willingly, and voluntarily waiving any right. If the
33 court finds after questioning the juvenile that the waiver is not
34 being made voluntarily and intelligently, the waiver shall be denied.

35 (3) A juvenile who is found to lack mental capacity may not
36 waive any right. A guardian ad litem shall be appointed for the
37 juvenile who may waive rights after consultation with the juvenile
38 and the juvenile's counsel.

39 (4) Waivers shall be executed in the language regularly spoken
40 by the juvenile.

41 (cf: P.L.2013, c.103, s.1)

42

43 2. Section 26 of P.L.1982, c.77 (C.2A:4A-45) is amended to
44 read as follows:

45 26. Retention of jurisdiction.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 a. The court shall retain jurisdiction over any case in which it
2 has entered a disposition under paragraph 7 of subsection b. or
3 subsection c. of section 24 of P.L.1982, c.77 (C.2A:4A-43) or under
4 section 25 of P.L.1982, c.77 (C.2A:4A-44) for the duration of that
5 disposition of commitment or incarceration and may substitute any
6 disposition otherwise available to it under section 24 of
7 P.L.1982, c.77 (C.2A:4A-43) other than incarceration.

8 b. Except as provided for in subsection a., the court shall retain
9 jurisdiction over any case in which it has entered a disposition
10 under section 24 of P.L.1982, c.77 (C.2A:4A-43) and may at any
11 time for the duration of that disposition, if after hearing, and notice
12 to the prosecuting attorney, it finds violation of the conditions of
13 the order of disposition, substitute any other disposition which it
14 might have made originally.

15 c. The court may by its order retain jurisdiction in any other
16 case.

17 d. Notwithstanding the provisions of subsection a. of this
18 section, whenever the court has entered a disposition directing the
19 out-of-home placement of the juvenile pursuant to subsection b. or
20 subsection c. of section 24 of P.L.1982, c.77 (C.2A:4A-43) or
21 section 25 of P.L.1982, c.77 (C.2A:4A-44), the court shall conduct
22 a placement review hearing no later than 12 months after entry of
23 the dispositional order. During this hearing, the court shall, at a
24 minimum, review the treatment, care, and custody status of the
25 juvenile; determine whether the placement agency is providing
26 those mental health, substance abuse, educational, and other
27 rehabilitative services necessary to promote the juvenile's
28 successful reintegration into the community; determine whether the
29 placement continues to be consistent with the factors enumerated in
30 subsection a. of section 24 of P.L.1982, c.77 (C.2A:4A-43); and, if
31 necessary, modify the dispositional order in accordance with those
32 factors. Subsequent placement review hearings shall be conducted
33 by the court at least once every 12 months throughout the duration
34 of any out-of-home placement ordered by the court.

35 e. The Supreme Court of New Jersey may adopt Rules of Court
36 governing the conduct of the placement review hearings mandated
37 by subsection d. of this section.

38 (cf: P.L.1995, c.280, s.13)

39
40 3. This act shall take effect immediately.

41
42
43 STATEMENT

44
45 Under current law, a juvenile has a right to an attorney at every
46 critical stage of a court proceeding in a delinquency case. This bill
47 clarifies that a juvenile has a right to an attorney during every court
48 appearance by the juvenile, any interrogation, identification

1 procedure, or other investigative activity undertaken by law
2 enforcement or prosecutorial personnel subsequent to the filing of
3 the complaint; and the duration of any dispositional order entered
4 by the court.

5 In addition, this bill establishes that when a court requires out-of-
6 home placement of child in a delinquency case, the court shall
7 conduct a placement review hearing no later than 12 months after
8 entry of the dispositional order. Under current law, although young
9 people are routinely sentenced to serve three or more years in State
10 custody, there is no court oversight of out-of-home placements in
11 juvenile delinquency cases unless a specific request is made of the
12 court.

13 This provision would amend the current law in New Jersey to be
14 consistent with Key Principle No. 13 of the National Council of
15 Juvenile and Family Court Judges' *Juvenile Delinquency Guidelines*
16 (2005), which states: "Juvenile Delinquency Court Judges Should
17 Ensure Effective Post-Disposition Review Is Provided to Each
18 Delinquent Youth as Long as the Youth is Involved in any
19 Component of the Juvenile Justice System." Such reviews are
20 essential to monitor compliance with the court's dispositional
21 orders, to ascertain whether the difficulties that led young people
22 into state custody are being addressed by the placement agency, and
23 to ensure that out-of-home placement continues to be appropriate.
24 Such hearings are required in a number of other states, including
25 New York and Pennsylvania.

26 The bill provides that during the placement hearing, the court is
27 to review the treatment, care, and custody status of the juvenile;
28 determine whether the placement agency is providing those mental
29 health, substance abuse, educational, and other rehabilitative
30 services necessary to promote the juvenile's successful
31 reintegration into the community; and determine whether the
32 placement continues to be consistent with the factors weighed in
33 determining the original disposition of the juvenile. The bill allows
34 the court to modify the dispositional order based on the factors
35 considered during the placement review hearing. The bill further
36 requires that the court conduct subsequent placement review
37 hearings every 12 months throughout the duration of any out-of-
38 home placement ordered by the court.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3117

STATE OF NEW JERSEY

DATED: FEBRUARY 16, 2023

The Assembly Judiciary Committee reports favorably Assembly Bill No. 3117.

Under current law, a juvenile has a right to an attorney at every critical stage of a court proceeding in a delinquency case. This bill clarifies that a juvenile has a right to an attorney during every court appearance by the juvenile, any interrogation, identification procedure, or other investigative activity undertaken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint; and the duration of any dispositional order entered by the court.

In addition, this bill establishes that when a court requires out-of-home placement of child in a delinquency case, the court shall conduct a placement review hearing no later than 12 months after entry of the dispositional order. Under current law, although young people are routinely sentenced to serve three or more years in State custody, there is no court oversight of out-of-home placements in juvenile delinquency cases unless a specific request is made of the court.

This provision would amend the current law in New Jersey to be consistent with Key Principle No. 13 of the National Council of Juvenile and Family Court Judges' *Juvenile Delinquency Guidelines* (2005), which states: "Juvenile Delinquency Court Judges Should Ensure Effective Post-Disposition Review Is Provided to Each Delinquent Youth as Long as the Youth is Involved in any Component of the Juvenile Justice System." Such reviews are essential to monitor compliance with the court's dispositional orders, to ascertain whether the difficulties that led young people into state custody are being addressed by the placement agency, and to ensure that out-of-home placement continues to be appropriate. Such hearings are required in a number of other states, including New York and Pennsylvania.

The bill provides that during the placement hearing, the court is to review the treatment, care, and custody status of the juvenile; determine whether the placement agency is providing those mental health, substance abuse, educational, and other rehabilitative services necessary to promote the juvenile's successful

reintegration into the community; and determine whether the placement continues to be consistent with the factors weighed in determining the original disposition of the juvenile. The bill allows the court to modify the dispositional order based on the factors considered during the placement review hearing. The bill further requires that the court conduct subsequent placement review hearings every 12 months throughout the duration of any out-of-home placement ordered by the court.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3117

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 23, 2023

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 3117.

As amended, under current law, a juvenile has a right to an attorney at every critical stage of a court proceeding in a delinquency case. This bill as amended clarifies that a juvenile has a right to an attorney during every court appearance by the juvenile, including all post dispositional appearances; and any interrogation, identification procedure, or other investigative activity undertaken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint.

In addition, the amended bill establishes that when a court requires out-of-home placement of child in a delinquency case, the court shall conduct a placement review no later than 12 months after entry of the dispositional order and may conduct a formal hearing if so requested by the juvenile or ordered by the court. Under current law, although young people are routinely sentenced to serve three or more years in State custody, there is no court oversight of out-of-home placements in juvenile delinquency cases unless a specific request is made of the court.

This provision would amend the current law in New Jersey to be consistent with Key Principle No. 13 of the National Council of Juvenile and Family Court Judges' *Juvenile Delinquency Guidelines* (2005), which states: "Juvenile Delinquency Court Judges Should Ensure Effective Post-Disposition Review Is Provided to Each Delinquent Youth as Long as the Youth is Involved in any Component of the Juvenile Justice System." Such reviews are essential to monitor compliance with the court's dispositional orders, to ascertain whether the difficulties that led young people into state custody are being addressed by the placement agency, and to ensure that out-of-home placement continues to be appropriate. Such hearings are required in a number of other states, including New York and Pennsylvania.

The bill provides that during the review, the court is to review the treatment, care, and custody status of the juvenile, including the mental health, substance abuse, educational, and other rehabilitative services provided to promote the juvenile's successful reintegration

into the community; and determine whether the placement continues to be consistent with the factors weighed in determining the original disposition of the juvenile. The bill allows the court to modify the disposition based on the factors considered during the review. The bill further provides that the court may conduct subsequent placement reviews every 12 months throughout the duration of any out-of-home placement ordered by the court if so requested by the juvenile.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

1) change the definition of “critical stage of a court proceeding” to provide that the phrase shall include every court appearance by the juvenile, including all post dispositional appearances; and any interrogation, identification procedure, or other investigative activity involving the juvenile taken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint;

2) change the term “placement review hearing” to “placement review” and provide that the court may conduct a formal hearing if requested by the juvenile or ordered by the court;

3) Delete the provision requiring the court to determine whether the placement agency is providing mental health, substance abuse, educational, and other rehabilitative services necessary to promote the juvenile’s successful reintegration into the community; replace this provision with a requirement that the court review the treatment, care, and custody status of the juvenile, including the mental health, substance abuse, educational, and other rehabilitative services provided to promote the juvenile’s successful reintegration into the community; and

4) provide that subsequent placement reviews may be conducted by the court at least once every 12 months during the duration of any out-of-home placement if so requested by the juvenile.

FISCAL IMPACT

Fiscal information for this bill is currently unavailable.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3117

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 18, 2023

As amended and reported by the Senate Law and Public Safety Committee, Assembly Bill No. 3117 (1R) clarifies a juvenile's right to attorney representation.

Under current law, a juvenile has a right to an attorney at every critical stage in the proceeding which, in the opinion of the court, may result in the institutional commitment of the juvenile.

Under the amended bill, a juvenile has the right to an attorney at every critical state of a court proceeding. The amended bill defines "critical state of a court proceeding" to include every court appearance by the juvenile, including all post dispositional appearances and any interrogation, identification procedure, or other investigative activity involving the juvenile undertaken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint.

As amended and reported by the committee, Assembly Bill No. 3117 (1R) is identical to the Senate Committee Substitute for Senate Bill No. 269, which was also reported by the committee on this same date.

COMMITTEE AMENDMENTS:

The committee amended the bill to remove the provision requiring a 12 month review when a juvenile is placed out-of-home as current law provides for a three month review for every juvenile sentenced to a term of commitment with the Juvenile Justice Commission.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]

ASSEMBLY, No. 3117

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2023

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 3117 (2R).

Under current law, a juvenile has a right to an attorney at every critical stage in the proceeding which, in the opinion of the court, may result in the institutional commitment of the juvenile.

Under the amended bill, a juvenile has the right to an attorney at every critical state of a court proceeding. The amended bill defines “critical state of a court proceeding” to include every court appearance by the juvenile, including all post dispositional appearances and any interrogation, identification procedure, or other investigative activity involving the juvenile undertaken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint.

As reported by the committee, Assembly Bill No. 3117 (2R) is identical to Senate Bill No. 269 (SCS), which was also reported by the committee on this date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that this bill may result in an indeterminate annual State expenditure increase due to the requirements concerning attorney representation for juveniles in juvenile delinquency cases. The OLS estimate is based on information received from the Office of the Public Defender, and publicly available information concerning case statistics from the Judiciary.

The Office of the Public Defender indicated in an informal response to the OLS that the implementation of the bill’s provisions are not expected to significantly impact the office’s workload, and thus the office does not anticipate the need to hire additional staff as a result of this bill.

The OLS notes this bill may result in an indeterminate, likely insignificant, expenditure increase for the Judiciary, as attorneys representing juveniles may bring more matters to the courts’ attention, thus requiring additional judicial resources to resolve.

STATEMENT TO
[Second Reprint]
ASSEMBLY, No. 3117

with Senate Floor Amendments
(Proposed by Senator TURNER)

ADOPTED: DECEMBER 21, 2023

Assembly Bill No. 3117 (2R) clarifies a juvenile's right to attorney representation.

Under current law, a juvenile has the right to an attorney at every critical stage in the proceeding which, in the opinion of the court, may result in the institutional commitment of the juvenile.

Under the bill, as reported by the Senate Budget and Appropriations committee, a juvenile has the right to an attorney at every critical stage of a court proceeding, which is defined to include every court appearance by the juvenile, including all post dispositional appearances; and any interrogation, identification procedure, or other investigative activity involving the juvenile undertaken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint.

These Senate amendments provide that the definition of critical stage of a court proceeding includes, but is not limited to, the proceedings set forth in the bill.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 3117
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: FEBRUARY 27, 2023

SUMMARY

Synopsis: Clarifies juvenile’s right to attorney representation; requires 12-month judicial review hearing when juvenile is placed out-of-home.

Type of Impact: Annual State expenditure increase.

Agencies Affected: The Judiciary; Office of the Public Defender.

Office of Legislative Services Estimate

Fiscal Impact	
Annual State Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) finds that this bill will result in indeterminate annual State expenditure increases due to the requirements concerning attorney representation for juveniles and out-of-home placement in juvenile delinquency cases.
- More specifically, the implementation of the bill’s provisions will result in an indeterminate expenditure increase for the Judiciary and the Office of the Public Defender due to increased workload. Under this bill, the Office of the Public Defender will have to provide increased attorney representation to juveniles, which may require additional time and resources of the office. The bill further requires that the court conduct subsequent placement review hearings every 12 months throughout the duration of any out-of-home placement ordered by the court. This will result in increased workload for the Judiciary. The OLS does not have any further information to quantify the exact fiscal impact of this bill.

BILL DESCRIPTION

This bill clarifies that a juvenile has a right to an attorney during every court appearance by the juvenile, any interrogation, identification procedure, or other investigative activity undertaken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint; and the duration of any dispositional order entered by the court.

In addition, this bill establishes that when a court requires out-of-home placement of child in a delinquency case, the court shall conduct a placement review hearing no later than 12 months

after entry of the dispositional order. Under current law, although young people are routinely sentenced to serve three or more years in State custody, there is no court oversight of out-of-home placements in juvenile delinquency cases unless a specific request is made of the court.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates the implementation of the bill's provisions will result in an indeterminate annual expenditure increase for the State. Under current law, a juvenile has a right to an attorney at every critical stage of a court proceeding in a delinquency case. This bill clarifies that a juvenile has a right to an attorney during every court appearance by the juvenile, any interrogation, identification procedure, or other investigative activity undertaken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint; and the duration of any dispositional order entered by the court. The OLS finds that this may result in increased workload for the Office of the Public Defender to provide attorney services to juveniles.

The bill allows the court to modify the dispositional order based on the factors considered during the placement review hearing. The bill further requires that the court conduct subsequent placement review hearings every 12 months throughout the duration of any out-of-home placement ordered by the court. According to data made available on Rutgers University's School of Social Work website, 1,568 children entered out-of-home placement in calendar year 2021. The OLS finds that the placement review provision may require significant bench time of the courts to review the treatment, care, and custody status of the juveniles. The OLS does not have any further information on how many juveniles are placed out-of-home for longer than a 12-month period.

Section: Judiciary

Analyst: Anuja Pande Joshi
Senior Fiscal Analyst

Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3117

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: MARCH 2, 2023

SUMMARY

- Synopsis:** Clarifies juvenile’s right to attorney representation; requires 12-month judicial review hearing when juvenile is placed out-of-home.
- Type of Impact:** Annual State expenditure increase.
- Agencies Affected:** The Judiciary; Office of the Public Defender.

Office of Legislative Services Estimate

Fiscal Impact	
Annual State Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) finds that this bill will result in indeterminate annual State expenditure increases due to the requirements concerning attorney representation for juveniles and out-of-home placement in juvenile delinquency cases.
- More specifically, the implementation of the bill’s provisions will result in an indeterminate expenditure increase for the Judiciary and the Office of the Public Defender due to increased workload. Under this bill, the Office of the Public Defender will have to provide increased attorney representation to juveniles, which may require additional time and resources of the office. The bill further requires that the court conduct a placement review no later than 12 months after entry of the dispositional order and may conduct a formal hearing if so requested by the juvenile or ordered by the court. This will result in increased bench time and workload of the Judiciary. The OLS does not have any further information to quantify the exact fiscal impact of this bill.

BILL DESCRIPTION

Under current law, a juvenile has a right to an attorney at every critical stage of a court proceeding in a delinquency case. This bill clarifies that a juvenile has a right to an attorney during every court appearance by the juvenile, including all post dispositional appearances; and any

interrogation, identification procedure, or other investigative activity undertaken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint.

In addition, the bill establishes that when a court requires out-of-home placement of a child in a delinquency case, the court shall conduct a placement review no later than 12 months after entry of the dispositional order and may conduct a formal hearing if so requested by the juvenile or ordered by the court. Under current law, there is no court oversight of out-of-home placements in juvenile delinquency cases unless a specific request is made of the court.

The bill provides that during the review, the court is to review the treatment, care, and custody status of the juvenile, including the mental health, substance abuse, educational, and other rehabilitative services provided to promote the juvenile's successful reintegration into the community; and determine whether the placement continues to be consistent with the factors weighed in determining the original disposition of the juvenile. The bill further provides that the court may conduct subsequent placement reviews every 12 months throughout the duration of any out-of-home placement ordered by the court if so requested by the juvenile.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates the implementation of the bill's provisions will result in an indeterminate annual expenditure increase for the State. Under current law, a juvenile has a right to an attorney at every critical stage of a court proceeding in a delinquency case. This bill clarifies and defines "critical stage of a court proceeding" as every court appearance by the juvenile, including all post dispositional appearances; and any interrogation, identification procedure, or other investigative activity involving the juvenile taken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint. The OLS finds that this may result in increased workload for the Office of the Public Defender to provide attorney services to juveniles during the critical stages of court proceedings enumerated above. However, the OLS does not have sufficient information to quantify the fiscal impact due to the increased workload of the office.

The bill requires that the court conduct a placement review no later than 12 months after entry of the dispositional order and may conduct a formal hearing if so requested by the juvenile or ordered by the court. According to data made available on the Rutgers University School of Social Work website, 1,568 children entered out-of-home placement in calendar year 2021. The OLS finds that the placement review provision may require significant bench time of the courts. Further, the courts are required to review the treatment, care, and custody status of the juvenile, including the mental health, substance abuse, educational, and other rehabilitative services provided to promote the juvenile's successful reintegration into the community, which will require additional time and resources of the courts. The bill also provides that subsequent placement reviews may be conducted by the court at least once every 12 months during the duration of any out-of-home placement if so requested by the juvenile. The OLS does not have any further information on how many juveniles are placed out-of-home for longer than a 12-month period.

Section: Judiciary

*Analyst: Anuja Pande Joshi
Senior Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 3117

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: AUGUST 28, 2023

SUMMARY

Synopsis: Clarifies juvenile's right to attorney representation.

Type of Impact: Annual State expenditure increase.

Agencies Affected: The Judiciary; Office of the Public Defender.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) finds that this bill may result in an indeterminate annual State expenditure increase due to the requirements concerning attorney representation for juveniles in juvenile delinquency cases. The OLS estimate is based on information received from the Office of the Public Defender, and publicly available information concerning case statistics from the Judiciary.
- The Office of the Public Defender indicated in an informal response to the OLS that the implementation of the bill's provisions are not expected to significantly impact the office's workload, and thus the office does not anticipate the need to hire additional staff as a result of this bill.
- The OLS notes this bill may result in an indeterminate, likely insignificant, expenditure increase for the Judiciary, as attorneys representing juveniles may bring more matters to the courts' attention, thus requiring additional judicial resources to resolve.

BILL DESCRIPTION

The bill clarifies a juvenile's right to attorney representation.

Under current law, a juvenile has the right to an attorney at every critical stage in the proceeding which, in the opinion of the court, may result in the institutional commitment of the

juvenile. Under the bill, a juvenile has the right to an attorney at every critical stage of a court proceeding. The bill defines “critical stage of a court proceeding” to include every court appearance by the juvenile, including all post dispositional appearances and any interrogation, identification procedure, or other investigative activity involving the juvenile undertaken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The OLS has not received a formal fiscal note on this bill. However, the Office of the Public Defender indicated in an informal response to the OLS that the enactment of this bill is not expected to impact the office’s workload in any significant manner, and that no additional staff hiring would be required. Additionally, the Office of the Public Defender stated that all juvenile representation required under this bill would be performed by the office’s existing staff attorneys, and would not require cases to be assigned to outside pool attorneys unless there is a conflict of interest.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that this bill may result in an indeterminate annual State expenditure increase due to the requirements concerning attorney representation for juveniles in juvenile delinquency cases.

In light of the information received from the Office of the Public Defender, the OLS estimates the implementation of the bill’s provisions may result in a modest increase in annual expenditures for the State. Under current law, a juvenile has a right to an attorney at every critical stage of a court proceeding in a delinquency case. This bill clarifies and defines “critical stage of a court proceeding” as every court appearance by the juvenile, including all post dispositional appearances; and any interrogation, identification procedure, or other investigative activity involving the juvenile taken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint. The OLS finds that this may result in an indeterminate, likely insignificant, increase in the use of judicial resources, as additional attorney representation may lead to additional matters being brought to the courts’ attention.

According to Judiciary data, there were 13,214 juvenile delinquency cases filed Statewide during FY 2023. This is a 22 percent increase over the 10,834 cases filed in FY 2022. The OLS notes, however, that because Office of the Public Defender representation is provided only to juveniles who meet the low-income qualification, the office’s actual juvenile caseload is presumably lower than these figures.

Section: Judiciary
Analyst: William Lim
Deputy Counsel
Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 269

STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Clarifies juvenile's right to attorney representation; requires 12-month judicial review hearing when juvenile is placed out-of-home.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning juvenile justice and amending P.L.1982, c.77.

2

3 **BE IT ENACTED** by the Senate and General Assembly of the State
4 of New Jersey:

5

6 1. Section 20 of P.L.1982, c.77 (C.2A:4A-39) is amended to
7 read as follows:

8 20. a. A juvenile shall have the right, as provided by the Rules
9 of Court, to be represented by counsel at every critical stage **[in**
10 **the]** of a court proceeding [which, in the opinion of the court may
11 result in the institutional commitment of the juvenile]. For the
12 purposes of this act “critical stage of a court proceeding” shall
13 include but not be limited to every court appearance by the juvenile;
14 any interrogation, identification procedure, or other investigative
15 activity involving the juvenile undertaken by law enforcement or
16 prosecutorial personnel subsequent to the filing of the complaint;
17 and the duration of any dispositional order entered by the court.

18 b. During every critical stage of a court proceeding in a
19 delinquency case provided under subsection a. of this section, the
20 waiving of any right afforded to a juvenile shall be accomplished in
21 the following manner:

22 (1) A juvenile who is found to have mental capacity may not
23 waive any rights except in the presence of and after consultation
24 with counsel, and unless a parent has first been afforded a
25 reasonable opportunity to consult with the juvenile and the
26 juvenile's counsel regarding this decision. The parent or guardian
27 may not waive the rights of a juvenile found to have mental
28 capacity.

29 (2) Any such waiver shall be executed in writing or recorded.
30 Before the court may accept a waiver, the court shall question the
31 juvenile and the juvenile's counsel to determine if the juvenile is
32 knowingly, willingly, and voluntarily waiving any right. If the
33 court finds after questioning the juvenile that the waiver is not
34 being made voluntarily and intelligently, the waiver shall be denied.

35 (3) A juvenile who is found to lack mental capacity may not
36 waive any right. A guardian ad litem shall be appointed for the
37 juvenile who may waive rights after consultation with the juvenile
38 and the juvenile's counsel.

39 (4) Waivers shall be executed in the language regularly spoken
40 by the juvenile.

41 (cf: P.L.2013, c.103, s.1)

42

43 2. Section 26 of P.L.1982, c.77 (C.2A:4A-45) is amended to
44 read as follows:

45 26. Retention of jurisdiction.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 a. The court shall retain jurisdiction over any case in which it
2 has entered a disposition under paragraph 7 of subsection b. or
3 subsection c. of section 24 of P.L.1982, c.77 (C.2A:4A-43) or under
4 section 25 of P.L.1982, c.77 (C.2A:4A-44) for the duration of that
5 disposition of commitment or incarceration and may substitute any
6 disposition otherwise available to it under section 24 of
7 P.L.1982, c.77 (C.2A:4A-43) other than incarceration.

8 b. Except as provided for in subsection a., the court shall retain
9 jurisdiction over any case in which it has entered a disposition
10 under section 24 of P.L.1982, c.77 (C.2A:4A-43) and may at any
11 time for the duration of that disposition, if after hearing, and notice
12 to the prosecuting attorney, it finds violation of the conditions of
13 the order of disposition, substitute any other disposition which it
14 might have made originally.

15 c. The court may by its order retain jurisdiction in any other
16 case.

17 d. Notwithstanding the provisions of subsection a. of this
18 section, whenever the court has entered a disposition directing the
19 out-of-home placement of the juvenile pursuant to subsection b. or
20 subsection c. of section 24 of P.L.1982, c.77 (C.2A:4A-43) or
21 section 25 of P.L.1982, c.77 (C.2A:4A-44), the court shall conduct
22 a placement review hearing no later than 12 months after entry of
23 the dispositional order. During this hearing, the court shall, at a
24 minimum, review the treatment, care, and custody status of the
25 juvenile; determine whether the placement agency is providing
26 those mental health, substance abuse, educational, and other
27 rehabilitative services necessary to promote the juvenile's
28 successful reintegration into the community; determine whether the
29 placement continues to be consistent with the factors enumerated in
30 subsection a. of section 24 of P.L.1982, c.77 (C.2A:4A-43); and, if
31 necessary, modify the dispositional order in accordance with those
32 factors. Subsequent placement review hearings shall be conducted
33 by the court at least once every 12 months throughout the duration
34 of any out-of-home placement ordered by the court.

35 e. The Supreme Court of New Jersey may adopt Rules of Court
36 governing the conduct of the placement review hearings mandated
37 by subsection d. of this section.

38 (cf: P.L.1995, c.280, s.13)

39

40 3. This act shall take effect immediately.

41

42

43

STATEMENT

44

45 Under current law, a juvenile has a right to an attorney at every
46 critical stage of a court proceeding in a delinquency case. This bill
47 clarifies that a juvenile has a right to an attorney during every court
48 appearance by the juvenile, any interrogation, identification

1 procedure, or other investigative activity undertaken by law
2 enforcement or prosecutorial personnel subsequent to the filing of
3 the complaint; and the duration of any dispositional order entered
4 by the court.

5 In addition, this bill establishes that when a court requires out-of-
6 home placement of child in a delinquency case, the court shall
7 conduct a placement review hearing no later than 12 months after
8 entry of the dispositional order. Under current law, although young
9 people are routinely sentenced to serve three or more years in State
10 custody, there is no court oversight of out-of-home placements in
11 juvenile delinquency cases unless a specific request is made of the
12 court.

13 This provision would amend the current law in New Jersey to be
14 consistent with Key Principle No. 13 of the National Council of
15 Juvenile and Family Court Judges' *Juvenile Delinquency Guidelines*
16 (2005), which states: "Juvenile Delinquency Court Judges Should
17 Ensure Effective Post-Disposition Review Is Provided to Each
18 Delinquent Youth as Long as the Youth is Involved in any
19 Component of the Juvenile Justice System." Such reviews are
20 essential to monitor compliance with the court's dispositional
21 orders, to ascertain whether the difficulties that led young people
22 into state custody are being addressed by the placement agency, and
23 to ensure that out-of-home placement continues to be appropriate.
24 Such hearings are required in a number of other states, including
25 New York and Pennsylvania.

26 The bill provides that during the placement hearing, the court is
27 to review the treatment, care, and custody status of the juvenile;
28 determine whether the placement agency is providing those mental
29 health, substance abuse, educational, and other rehabilitative
30 services necessary to promote the juvenile's successful
31 reintegration into the community; and determine whether the
32 placement continues to be consistent with the factors weighed in
33 determining the original disposition of the juvenile. The bill allows
34 the court to modify the dispositional order based on the factors
35 considered during the placement review hearing. The bill further
36 requires that the court conduct subsequent placement review
37 hearings every 12 months throughout the duration of any out-of-
38 home placement ordered by the court.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR SENATE, No. 269

STATE OF NEW JERSEY

DATED: MAY 18, 2023

The Senate Law and Public Safety Committee reports favorably a Senate Committee Substitute for Senate Bill No. 269.

As reported by the committee, the committee substitute clarifies a juvenile's right to attorney representation.

Under current law, a juvenile has the right to an attorney at every critical stage in the proceeding which, in the opinion of the court, may result in the institutional commitment of the juvenile.

Under the committee substitute, a juvenile has the right to an attorney at every critical state of a court proceeding. The committee substitute defines "critical state of a court proceeding" to include every court appearance by the juvenile, including all post dispositional appearances and any interrogation, identification procedure, or other investigative activity involving the juvenile undertaken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint.

As reported by the committee, the Senate Committee Substitute for Senate Bill No. 269 is identical to Assembly Bill No. 3117 (1R), which also was amended and reported by the committee on this same date.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR SENATE, No. 269

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2023

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 269 SCS.

As referred to the committee, the committee substitute clarifies a juvenile's right to attorney representation.

Under current law, a juvenile has the right to an attorney at every critical stage in the proceeding which, in the opinion of the court, may result in the institutional commitment of the juvenile.

Under the committee substitute, a juvenile has the right to an attorney at every critical state of a court proceeding. The committee substitute defines "critical state of a court proceeding" to include every court appearance by the juvenile, including all post dispositional appearances and any interrogation, identification procedure, or other investigative activity involving the juvenile undertaken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint.

As reported by the committee, Senate Bill No. 269 (SCS) is identical to Assembly Bill No. 3117 (2R), which was also reported by the committee on this date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that this bill may result in an indeterminate annual State expenditure increase due to the requirements concerning attorney representation for juveniles in juvenile delinquency cases. The OLS estimate is based on information received from the Office of the Public Defender, and publicly available information concerning case statistics from the Judiciary.

The Office of the Public Defender indicated in an informal response to the OLS that the implementation of the bill's provisions are not expected to significantly impact the office's workload, and thus the office does not anticipate the need to hire additional staff as a result of this bill.

The OLS notes this bill may result in an indeterminate, likely insignificant, expenditure increase for the Judiciary, as attorneys representing juveniles may bring more matters to the courts' attention, thus requiring additional judicial resources to resolve.

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 269

with Senate Floor Amendments
(Proposed by Senator TURNER)

ADOPTED: DECEMBER 21, 2023

The Senate Committee Substitute for Senate Bill No. 269 clarifies a juvenile's right to attorney representation.

Under current law, a juvenile has the right to an attorney at every critical stage in the proceeding which, in the opinion of the court, may result in the institutional commitment of the juvenile.

Under the bill, as reported by the Senate Budget and Appropriations committee, a juvenile has the right to an attorney at every critical stage of a court proceeding, which is defined to include every court appearance by the juvenile, including all post dispositional appearances; and any interrogation, identification procedure, or other investigative activity involving the juvenile undertaken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint.

These Senate amendments provide that the definition of critical stage of a court proceeding includes, but is not limited to, the proceedings set forth in the bill.

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 269
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: AUGUST 28, 2023

SUMMARY

Synopsis: Clarifies juvenile’s right to attorney representation.

Type of Impact: Annual State expenditure increase.

Agencies Affected: The Judiciary; Office of the Public Defender.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) finds that this bill may result in an indeterminate annual State expenditure increase due to the requirements concerning attorney representation for juveniles in juvenile delinquency cases. The OLS estimate is based on information received from the Office of the Public Defender, and publicly available information concerning case statistics from the Judiciary.
- The Office of the Public Defender indicated in an informal response to the OLS that the implementation of the bill’s provisions are not expected to significantly impact the office’s workload, and thus the office does not anticipate the need to hire additional staff as a result of this bill.
- The OLS notes this bill may result in an indeterminate, likely insignificant, expenditure increase for the Judiciary, as attorneys representing juveniles may bring more matters to the courts’ attention, thus requiring additional judicial resources to resolve.

BILL DESCRIPTION

The bill clarifies a juvenile’s right to attorney representation.

Under current law, a juvenile has the right to an attorney at every critical stage in the proceeding which, in the opinion of the court, may result in the institutional commitment of the juvenile. Under the bill, a juvenile has the right to an attorney at every critical stage of a court

proceeding. The bill defines “critical stage of a court proceeding” to include every court appearance by the juvenile, including all post dispositional appearances and any interrogation, identification procedure, or other investigative activity involving the juvenile undertaken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The OLS has not received a formal fiscal note on this bill. However, the Office of the Public Defender indicated in an informal response to the OLS that the enactment of this bill is not expected to impact the office’s workload in any significant manner, and that no additional staff hiring would be required. Additionally, the Office of the Public Defender stated that all juvenile representation required under this bill would be performed by the office’s existing staff attorneys, and would not require cases to be assigned to outside pool attorneys unless there is a conflict of interest.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that this bill may result in an indeterminate annual State expenditure increase due to the requirements concerning attorney representation for juveniles in juvenile delinquency cases.

In light of the information received from the Office of the Public Defender, the OLS estimates the implementation of the bill’s provisions may result in a modest increase in annual expenditures for the State. Under current law, a juvenile has a right to an attorney at every critical stage of a court proceeding in a delinquency case. This bill clarifies and defines “critical stage of a court proceeding” as every court appearance by the juvenile, including all post dispositional appearances; and any interrogation, identification procedure, or other investigative activity involving the juvenile taken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint. The OLS finds that this may result in an indeterminate, likely insignificant, increase in the use of judicial resources, as additional attorney representation may lead to additional matters being brought to the courts’ attention.

According to Judiciary data, there were 13,214 juvenile delinquency cases filed Statewide during FY 2023. This is a 22 percent increase over the 10,834 cases filed in FY 2022. The OLS notes, however, that because Office of the Public Defender representation is provided only to juveniles who meet the low-income qualification, the office’s actual juvenile caseload is presumably lower than these figures.

Section: Judiciary
Analyst: William Lim
Deputy Counsel
Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE
[First Reprint]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 269
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: JANUARY 11, 2024

SUMMARY

Synopsis: Clarifies juvenile’s right to attorney representation.

Type of Impact: Annual State expenditure increase.

Agencies Affected: The Judiciary; Office of the Public Defender.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) finds that this bill may result in an indeterminate annual State expenditure increase due to the requirements concerning attorney representation for juveniles in juvenile delinquency cases. The OLS estimate is based on information received from the Office of the Public Defender, and publicly available information concerning case statistics from the Judiciary.
- The Office of the Public Defender indicated in an informal response to the OLS that the implementation of the bill’s provisions are not expected to significantly impact the office’s workload, and thus the office does not anticipate the need to hire additional staff as a result of this bill.
- The OLS notes this bill may result in an indeterminate, likely insignificant, expenditure increase for the Judiciary, as attorneys representing juveniles may bring more matters to the courts’ attention, thus requiring additional judicial resources to resolve.

BILL DESCRIPTION

The bill clarifies a juvenile’s right to attorney representation.

Under current law, a juvenile has the right to an attorney at every critical stage in the proceeding which, in the opinion of the court, may result in the institutional commitment of the juvenile. Under the bill, a juvenile has the right to an attorney at every critical stage of a court proceeding. The bill defines “critical stage of a court proceeding” to include, but not be limited to, every court appearance by the juvenile, including all post dispositional appearances and any interrogation, identification procedure, or other investigative activity involving the juvenile undertaken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The OLS has not received a formal fiscal note on this bill. However, the Office of the Public Defender indicated in an informal response to the OLS that the enactment of this bill is not expected to impact the office’s workload in any significant manner, and that no additional staff hiring would be required. Additionally, the Office of the Public Defender stated that all juvenile representation required under this bill would be performed by the office’s existing staff attorneys, and would not require cases to be assigned to outside pool attorneys unless there is a conflict of interest.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that this bill may result in an indeterminate annual State expenditure increase due to the requirements concerning attorney representation for juveniles in juvenile delinquency cases.

In light of the information received from the Office of the Public Defender, the OLS estimates the implementation of the bill’s provisions may result in a modest increase in annual expenditures for the State. Under current law, a juvenile has a right to an attorney at every critical stage of a court proceeding in a delinquency case. This bill clarifies and defines “critical stage of a court proceeding” as every court appearance by the juvenile, including, but not limited to, all post dispositional appearances; and any interrogation, identification procedure, or other investigative activity involving the juvenile taken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint. The OLS finds that this may result in an indeterminate, likely insignificant, increase in the use of judicial resources, as additional attorney representation may lead to additional matters being brought to the courts’ attention.

According to Judiciary data, there were 13,214 juvenile delinquency cases filed Statewide during FY 2023. This is a 22 percent increase over the 10,834 cases filed in FY 2022. The OLS notes, however, that because Office of the Public Defender representation is provided only to juveniles who meet the low-income qualification, the office’s actual juvenile caseload is presumably lower than these figures.

Section: *Judiciary*

Analyst: *Anuja Pande Joshi*
 Senior Fiscal Analyst

Approved: *Thomas Koenig*
 Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Signs Bill Clarifying Juveniles' Rights to Attorney Representation

01/12/2024

TRENTON – Governor Phil Murphy today signed [A-3117/S-269](#), which provides juveniles the right to be represented by counsel at every critical stage of a court proceeding. Critical stages of a court proceeding include all post-dispositional appearances and any interrogation, identification procedure, or other investigative activity involving the juvenile undertaken by law enforcement or prosecutorial personnel subsequent to the filing of the complaint.

"From arrest to deliberation, court proceedings can be a confusing time for a juvenile, especially for those who don't have the finances to afford an attorney. Cementing their right to counsel throughout the process will give them a chance to better navigate the options available to them," said **Governor Phil Murphy**. "Our Administration will continue to prioritize the creation of a stronger and fairer juvenile justice system in New Jersey that better serves all young individuals seeking to rehabilitate their lives."

"The right to counsel enshrined in the Constitution safeguards legal protections and promotes fair and appropriate outcomes within our justice system," said **Attorney General Matthew J. Platkin**. "This legislation further clarifies the contours of this important right in youth justice proceedings."

"By guaranteeing the right to counsel of a juvenile being interrogated by police, this legislation is a significant and much needed reform to our system of juvenile justice," said **New Jersey Public Defender Joseph Krakora**. "I want to thank Governor Murphy and the Legislature for passing it and prioritizing NJ's juvenile justice system."

The prime sponsors of this bill are Senator Shirley Turner and then-Assemblyman, now-Senator Raj Mukherji. Other primary sponsors include Senator Nellie Pou, Assemblyman William Spearman, and Assemblyman Reginald Atkins.

"While juveniles were already entitled to representation, it is our hope that this will help to connect them with an attorney as early as possible in the process," said **Senator Turner**. "Kids are especially vulnerable and this will reduce the possibility of them being subject to inappropriate treatment or punishment, and work to prevent any other form of injustice from occurring."

"Juveniles are inherently vulnerable, which is intensified and sometimes exploited once they enter the criminal justice system," said **Senator Pou**. "We must ensure that these young people are afforded the right to legal representation throughout their time within the system. This new law will make sure that right is guaranteed."

"Young people who face charges need representation by their side," said **Assemblyman William Spearman**. "We don't want juveniles to get into trouble with the law as adults."

"Young people facing criminal charges need support so that they don't become repeat offenders," said **Assemblyman Reginald Atkins**. "They need legal guidance to set them on the right path."